IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 209 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME-TAX

Versus

HARIVALLABHDAS KALIDAS CHARITABLE TRUST,

Appearance:

1. INCOME TAX REFERENCE No. 209 of 1991

MR AKIL QURESHI for MR MANISH R BHATT for Petitioner No. 1

..... for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 20/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question has been referred for the opinion of this Court in respect of assessment year 1981-82:-

"Whether, the Appellate Tribunal is right in law and on facts in holding that section 13 (2)(h) of the Income Tax Act is not applicable to the assessee trust and thereby deleting the addition of Rs.88,832/- ?"

2. We have heard Mr. Akil Qureshi learned counsel for the revenue. Though served, none appears for the respondent-assessee.

3. The learned counsel for the revenue fairly points out that the controversy raised herein is concluded in favour of the assessee by the decisions dated 3-12-1993 and 18-1-1995 rendered by this Court in WTR Nos.21 of 1981 and 22 of 1981 respectively, and also by the decision dated 26-6-2001 in WTR No.53 of 1984.

4. In view of the above decisions, we answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

5. The Reference accordingly stands disposed of with no order as to costs.

(M.S. Shah,J)

(D.A. Mehta,J)

zgs/-